

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
:  
IN RE: :

AXA EQUITABLE LIFE INSURANCE COMPANY :  
COI LITIGATION :

16-CV-740 (JMF)

:  
:  
ORDER  
:

*This Document Relates to All Actions*  
:  
-----X

JESSE M. FURMAN, United States District Judge:

Upon review of the parties' joint letter of April 21, 2023, regarding the October 30, 2023 trial, the Court rules as follows:

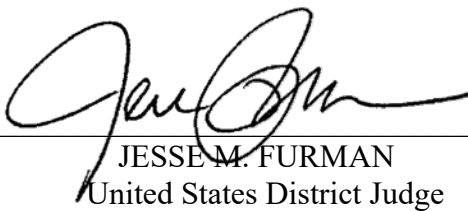
- The Court agrees with Class Plaintiffs that the issue of expert consolidation can and should be deferred until after the mediation deadline passes. Plaintiffs shall file a joint letter addressing the issue no later than **June 7, 2023**.
- The Court agrees with AXA Equitable that the question of whether AXA Equitable should be precluded from using the testimony of non-testifying experts at trial should be deferred until after the mediation deadline for Class Plaintiffs' claims. That said, the Court agrees with Plaintiffs that the issue should be resolved sooner than the motion in limine schedule would permit. The parties shall confer and, no later than **June 7, 2023**, submit a joint letter proposing a briefing schedule on the issue.
- EFG/EAA Plaintiffs and Duffy/Tull Plaintiffs are granted leave to use Class Plaintiffs' damages expert, Robert Mills, provided that Mr. Mills utilizes the same methodology he utilized to proffer an opinion as to damages incurred by Class Plaintiffs. Furthermore, Dr. Glenn Hubbard, AXA Equitable's damages expert, is permitted to challenge those calculations and offer rebuttal opinions on EFG/EAA Plaintiffs' (and, if applicable, Duffy/Tull Plaintiffs') alleged damages. No later than **October 20, 2023**, Mr. Mills shall provide a supplemental report concerning his opinion as to contract damages incurred by the EFG/EAA Plaintiffs and, if applicable, Duffy/Tull Plaintiffs.
- The Court agrees with LSH Plaintiffs (and AXA Equitable) that all liability elements of LSH Plaintiffs' Section 4226 should be tried. The Court is confident that Class Plaintiffs' concerns can be addressed through careful jury instructions and the verdict form.

To the extent that any party believes that a more formal order is appropriate with respect to any

of the foregoing issues, counsel shall promptly confer and submit an agreed-upon proposed order.

SO ORDERED.

Dated: May 5, 2023  
New York, New York



---

JESSE M. FURMAN  
United States District Judge